SINGLE BENCH

C.S. 6001

(1)

03

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CG)

WRIT PETITION NO. 4602 /2005

PETITIONERS

1. Ramnarayan, aged about 45 years, son of Late Kanwal Sai Caste Gond

2. Prabhu Dayal alias Prabhunath, aged about 75 years, son of Bandhan Caste Gond

3. Prabal Dayal alias Prabal Sai, aged about 72 years, son of Shri Bandhan Caste Gond

4. Ram Prasad, son of Shri Bandhan, aged about 65 years, Caste Gond

5. Shivnandan, aged about 25 years, son of Late Bhoolan, Caste Gond

6. Smt. Jagriti Singh, aged about 37 years, Wife of Shri Ramlakhan Caste Gond

All resident of village Fundurdihari, Banaras Road, Opposite T.C.P.C. Ambikapur, Police Station Subhash Nagar, Tah Ambikapur, Distt. Surguja (Chhattisgarh)

P.R. No. 4956/05
Presented by Shri A.N. Bhakta
dated 8/9/05

RECEIVED-COPY
8/9/05
CLERK to A. G. BILASPUR

8/9/05

VERSUS

RESPONDENTS

1. The State of Chhattisgarh, through – Secretary, Department of Home Affairs, Dau Kalyan Singh Bhawan, Raipur (Chhattisgarh)

2. The District Collector, Surguja, Ambikapur, (C.G.)

3. The Superintendent of Police District Surguja, Ambikapur, (C.G.)

4. The Police Station House Officer, Subhash Nagar (Ambikapur Dehat) Tahsil Ambikapur, Distt. Surguja (C.G.)

5. Ratan Puri, son of Shobhnath Puri, aged about 65 years, Ex-Serviceman Naval Staff, resident of – Gurudwara Ward, Ambikapur, Distt. Surguja (Chhattisgarh)

6. Ashok Tiwari alias Bawa Pandit, aged about 45 years, resident of – Jarhagarh, behind Rashid Bus Owner's residence, Ambikapur, District Surguja (C.G.)

05

(3)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA,

XI-HC-78

49

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

WP 4602/05

~~WP 4062/05~~

मामला क्रमांक ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	26.9.2005 Shri A.N. Bhakta, counsel for the petitioners. Shri Y.S. Thakur, Govt. Adv. for respondent Nos.1 to 4. The petitioners have preferred this writ petition under Article 226/227 of the Constitution of India praying therein to direct respondent Nos.1 to 4 to investigate the case by registering offence under appropriate provisions of law and take action against respondent Nos.5 & 6 and their allies and to provide police protection. The case of the petitioners is that there is a government land bearing Khasra Nos.323/13 area 0.85 acre & 323/15 area 2.65 acres situated at Village Fundurdehari near Ambikapur Town. The father and forefathers of the petitioners No.1 to 6 are in continuous possession of this land since last 60 years. In the year 1967-68 respondent No.5 herein got a Patta of that land from the Revenue Authorities by suppressing the fact that petitioners had never been in possession of the said land. When the petitioners came to know about this fact they made objection before the Revenue Authorities, but inspite of that Patta was given to respondent No.5. In the year 1957-58 petitioners No.2 to 4 made applications before the Tehsildar for settlement and issuance of Patta. The petitioners are in continuous possession of the said land and on account of activities of respondent No.5 they have filed a civil suit, as the revenue authorities were not	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर 50

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

taking action. However, the said suit was dismissed against which the petitioners had preferred an appeal before the District Judge, Ambikapur and vide order 9.5.1992 the judgment of the trial court was set aside, the matter was remanded back for fresh trial and since then the matter is pending before the Civil Court. During the pendency of the suit respondent No.5 is trying to dispossess the petitioners from the said land and therefore, a criminal case was registered against respondent Nos.5 & 6 under Sections 448/34 & 506 of the IPC. The petitioners' further case is that respondent Nos.5 & 6 are trying to dispossess the petitioners but respondent Nos. 1 to 4 are not taking any action against them.

I have heard learned counsel for the petitioner.

As far as the question of threatening of dispossession by respondent Nos.5 & 6 is concerned, when the petitioners have already filed a suit they can move the Civil Court for grant of temporary injunction in accordance with law. As far as the question of threatening & criminal activities of respondent Nos.5 & 6 are concerned, the petitioners are at liberty to move before the concerned Executive Magistrate regarding keeping peace by respondent Nos.5 & 6 and if any other criminal activities is committed by them, then the petitioners are at liberty to move the police

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

authorities fail to take any action then the petitioners are at liberty to move the concerned judicial Court.

In view of the above, I am of the opinion that there is no case to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India. The petition is liable to be dismissed and it is, accordingly, dismissed.

Consequently, M.(W.)P. No.3783/2005 & I.A. No. 8283/025 also stand dismissed.

Sd/-
L.C. Bhadoo
Judge